

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO COMPANY and)	
MONSANTO TECHNOLOGY LLC,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
E.I. DUPONT DE NEMOURS AND)	Case No. 4:09-cv-686 ERW
COMPANY and PIONEER HI-BRED)	
INTERNATIONAL,)	
INC.,)	
)	
Defendants.)	

**PLAINTIFFS' REQUEST FOR EXPEDITED ORAL ARGUMENT
(ON MONDAY, AUGUST 23RD OR SOON THEREAFTER)
RELATING TO DEFENDANTS' MOTION TO EXTEND DATE
TO DISCLOSE OPINIONS OF COUNSEL**

This afternoon, *one business day* before their opinions of counsel are due to be produced, Defendants ask this Court to significantly alter the scheduling order and delay their production by two-and-a-half weeks, until shortly before the document production deadline. Defendants' motion, however, goes far beyond requesting a mere courtesy extension. If granted, their motion would negatively impact Monsanto's rights, and disrupt the contemplated sequence of "Markman Issues" that the parties negotiated and this Court approved in Part I.3 of its Case Management Order.

Defendants have had a year to make their decision about whether to rely on and produce opinions of counsel. Defendants do not assert these opinions are unavailable for production, and they plainly must be. Rather, Defendants simply want to selectively delay this production, purportedly on the grounds that they need still *more* time to think about the implications of their decision. Defendants' stated justification rings hollow, however, and should be considered in light of their own opposition to *any other* change in the schedule – including the very short

continuance of the *Markman* hearing Monsanto previously proposed in order to accommodate the vacation plans of its expert witness that Defendants adamantly refused.

Defendants' improper eleventh-hour motion practice deprives Monsanto of a meaningful opportunity to fully respond in writing before the appointed deadline for Defendants' document production. To the extent that the Court does not deny Defendants' motion outright, Monsanto requests that the Court hold argument on Monday, August 23 to provide Monsanto with an opportunity to respond orally.

Dated: August 20, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of August, 2010, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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